

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.  
DANIEL A. ROSE**

**APPELLANT,**

**RESPONDENT.**

---

DOCKET NUMBER WD78567

DATE: February 9, 2016

---

Appeal From:

Platte County Circuit Court  
The Honorable James W. Van Amburg, Judge

---

Appellate Judges:

Special Division: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge and Zel M. Fischer,  
Special Judge

---

Attorneys:

Blake C. Sherer, Jefferson City, MO, for appellant.

Jeannie M. Willibey, Kansas City, MO, for respondent.

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**APPELLANT,**

**v.**

**DANIEL A. ROSE,**

**RESPONDENT.**

No. WD78567

Platte County

Before Special Division: Cynthia L. Martin, Presiding Judge, Gary D. Witt, Judge, and Zel M. Fischer, Special Judge

Daniel Rose filed a pretrial motion to dismiss asserting that prosecution of two counts set forth in an indictment would constitute double jeopardy, and asking the trial court to dismiss either of the counts. The trial court issued a pretrial order agreeing that a conviction on both counts would violate double jeopardy and ordering that the State, at its option, either dismiss one of the counts or submit the counts to the jury in the alternative. The State appeals, contesting the double jeopardy determination.

**APPEAL DISMISSED.**

**Special Division holds:**

The trial court's order did not dismiss or discharge Rose as to either count with which he was charged. The order is an interlocutory expression of the trial court's pretrial opinion regarding double jeopardy concerns. The order is a non-appealable interlocutory order pursuant to section 547.200.1, and is not a final judgment eligible for appeal pursuant to section 547.200.2.

**Opinion by: Cynthia L. Martin, Judge**

February 9, 2016

\*\*\*\*\*

This summary is UNOFFICIAL and should not be quoted or cited.
---